

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KEITH THOMPSON,

Plaintiff,

-against-

OFFICER RUIZ, SHIELD # 10766; CITY OF NEW
YORK; JOHN DOE NEW YORK CITY POLICE
OFFICER,

Defendants.

**ANSWER OF DEFENDANTS
CITY OF NEW YORK AND
OFFICER VINCENT RUIZ**

11 Civ. 5310 (PAC)(THK)

JURY TRIAL DEMANDED

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Defendants in this action, City of New York ("City") and Officer Vincent Ruiz ("Ruiz"), by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for their answer to the complaint respectfully allege, upon information and belief, as follows:¹

1. Deny the allegations set forth in paragraph "1" of the complaint, except admit that Plaintiff purports to bring a claim as stated therein.
2. Deny the allegations set forth in paragraph "2" of the complaint, except admit that Plaintiff purports to invoke the jurisdiction of this Court as stated therein.
3. Deny knowledge or information sufficient to form a belief about the truth of the allegations set forth in paragraph "3" of the complaint.

¹ As per Judge Crotty's order of September 6, 2011, this office provided Plaintiff, on November 3, 2011, with the name and service address of the unidentified officer referred to in the complaint. Plaintiff has yet to file with the Court an amended complaint naming the newly identified officer. Plaintiff has, however, delivered to this office several documents purporting to be amended complaints which reflect the newly identified officer's name in the caption. As no amended complaint has been filed, Defendants herein answer the original and operative complaint.

4. Deny the allegations set forth in paragraph "4" of the complaint, except admit that Plaintiff purports to lay venue as stated therein.

5. Deny the allegations set forth in paragraph "5" of the complaint, except admit that defendant Ruiz is employed by the City of New York as a police officer.

6. Paragraph "6" contains only a conclusion of law therefore no response is required.

7. Paragraph "7" contains only a conclusion of law therefore no response is required.

8. Paragraph "8" contains a statement of law, not an averment of fact, therefore no response is required.

9. Deny the allegations set forth in paragraph "9" of the complaint.

10. Deny the allegations set forth in paragraph "10" of the complaint.

11. Deny the allegations set forth in paragraph "11" of the complaint.

12. Deny the allegations set forth in paragraph "12" of the complaint.

13. Deny the allegations set forth in paragraph "13" of the complaint.

14. Deny the allegations set forth in paragraph "14" of the complaint.

15. Deny the allegations set forth in paragraph "15" of the complain.

16. Deny the allegations set forth in paragraph "16" of the complaint.

17. Deny the allegations set forth in paragraph "17" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

18. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

19. Defendants have not violated any rights, privileges, or immunities under the Constitution or the laws of the United States or the State of New York or any political

subdivision thereof, nor have Defendants violated any Act of Congress providing for the protection of civil rights.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

20. Any injury alleged to have been sustained resulted from Plaintiff's own culpable or negligent conduct and/or that of a third party, and was not the proximate result of any act of Defendants.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

21. Defendant Ruiz has not violated any clearly established constitutional or statutory right of which a reasonable person would have known and therefore is protected by qualified immunity

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

22. Defendant Ruiz's alleged acts were supported by reasonable suspicion and/or probable cause.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

23. Plaintiff cannot obtain punitive damages from the City of New York.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

24. Any state law claims may be barred by Plaintiff's failure to comply with conditions precedent to suit, pursuant to General Municipal Law §§ 50-e and 50-i.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:

25. At all times relevant to the acts alleged in the complaint, defendant City, its agents and officials, acted reasonably, properly, lawfully, and in good faith in the exercise of their discretion. Consequently, defendant City of New York, is entitled to governmental immunity.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE:

26. At all times relevant to the acts alleged in the complaint, defendant Ruiz acted reasonably and properly in the lawful exercise of his discretion.

WHEREFORE, defendants City and Ruiz request judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
December 30, 2011

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By: /s/
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**ANSWER OF DEFENDANTS CITY OF NEW YORK
AND OFFICER VINCENT RUIZ**

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NYCLIS No.: 2011-029271*

Due and timely service is hereby admitted.

New York, N.Y., 2011

..... Esq.

Attorney for